



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
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**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3009664  
**Applicant Name:** Robert Widmeyer for The Log Foundation  
**Address of Proposal:** 2019 Fairview Ave E

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to remove an existing one story floating home of approximately 1,135 square feet (KCA#43) from 2019 Fairview Avenue East, Slip #0, to another location with the intention of demolishing it under a separate permit. Project includes replacing it with an existing one-story 1,080 square foot floating home (KCA#451).

The following Master Use Permit components are required:

**Shoreline Substantial Development Permit** – to allow the removal of one floating home and replacing it with another floating home in an Urban Residential (UR) Shoreline Environment. – (SMC 23.60.540)

**SEPA – Environmental Determination** – (Chapter 25.05 SMC

**SEPA DETERMINATION:** ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

**BACKGROUND DATA**

**Existing Conditions**

The subject site is located on Lake Union in an Urban Residential (UR) shoreline environment on Fairview Avenue East between East Newton St and East Boston St. The Log Foundation Moorage is a non-conforming moorage which currently contains 52 floating homes (houseboats). The existing floating home to be removed is rectangular in shape with a total float area of 1,135 square feet and is in very poor condition. The intention of The Log Foundation is to have the floating

home to be removed, the Rarey houseboat, demolished at another location under a separate permit. The zoning designation of the site is Single Family 5000 (SF 5000). The current Rarey float, a 1,135 square foot, one-story floating home is located on the east side of Lake Union. The subject floating home moorage is non-conforming as to the development standards set forth in Section 23.60.196C of the Seattle Municipal Code.

#### Area Development

The proposal site is part of an existing group of 52 floating home moorages at “The Log Foundation Moorage Group”. The Brackett floating home is located at 2818 1/2 Boyer St. and is being moved to 2019 Fairview Ave E on Lake Union, the slip that was formally occupied by the Rarey houseboat, slip #0. There are floating homes to the north, south and east of the site, open water to the west, and Fairview Avenue E to the east.

#### Proposal

The applicant proposes to relocate the existing one story 1,080 square foot Brackett floating home to 2019 Fairview Avenue East, slip #0 on Lake Union to replace the existing one-story 1,135 square foot Rarey Houseboat that will be moved to a location off-site for demolition under a separate permit. The Brackett floating home is 32-ft. 5 inches by 20-ft. 6 inches for a total float area of 1,080 sq. ft., and the Rarey Houseboat is 34-ft. 7 inches by 18-ft. 6 inches by 8-ft. 6 inches by 3-ft. 9 inches, for a total float area of 1,135 sq. ft. The footprint of the relocated floating home is smaller in size than the one it is replacing and the height of the proposed floating home is 15 feet 5 inches which is 2 feet 8 inches higher than the floating home that is being removed for demolition. The living area for the Rarey floating home to be removed is 679 square feet and the living area for the Brackett floating home to be relocated is 669.5 square feet. The relocation of the floating home meets the maximum height requirement of 18 feet and is lower by almost three feet. Therefore, neither the existing float, nor the current footprint of the structure will be increased outside the boundary of the existing floating moorage.

#### Public Comment

The comment period for the proposed project ended May 1, 2009. No comment letters were received.

#### Other Agency Comments

Metro generally recommends that to protect water quality, materials, and construction methods should be used which prevent toxic materials, petrochemicals, and other pollutants from entering surface water during and after construction. The least toxic wood preservatives that are appropriate for fresh water should be used. Any construction debris floating in the water shall be promptly removed.

The State Department of Natural Resources has offered no comments.

## **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

### **Substantial Development Permit Required**

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: A substantial development permit shall be issued only when the development proposed is consistent with:

- A. The policies and procedures of Chapter 90.58 RCW;*
- B. The regulations of this Chapter; and*
- C. The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

### **A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58 RCW**

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

### **B. THE REGULATIONS OF CHAPTER 23.60**

The regulations of SMC, Section 23.60.064 require that the proposed use(s): 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) are permitted in the shoreline environment and the underlying zoning district and 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

#### SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The policies support and encourage the establishment of water dependent uses. Floating homes, because of their historic role in Seattle, are designated as a water dependent use but the increase of floating home moorages or the increase in use of the shoreline or water area by floating homes is not necessarily encouraged. The intent is to recognize the existing floating home community in Lake Union and Portage Bay, while protecting natural areas, preserving public access to the shoreline, and preventing the displacement of water dependent commercial and manufacturing uses by floating homes. Areas with substantial concentrations of existing floating homes are designated to preserve residential uses. The proposal site is located in an area designated as Urban Residential. This designation is listed in the Seattle Municipal Code and referenced in the Comprehensive Plan and is intended to protect residential areas in a manner consistent with the Single-family and Multi-family Residential Area Policies. Therefore, the proposed project would conform to the policies of the comprehensive plan and would be consistent with the purpose of the UR designation.

#### Development Standards

The applicant proposes to remove an existing one story floating home of approximately 1,135 square feet (KCA#43) from 2019 Fairview Avenue East, Slip #0, to another location with the intention of demolishing it under a separate permit and replace it with an existing one-story 1,080 square foot floating home (KCA#451). This activity is permitted outright in SMC 23.60.540 governing the UR shoreline environment. The proposed action is therefore subject to:

1. *General development standards for all shoreline environments (SSMP 23.60.152);*
2. *Development standards for nonconforming floating homes (SSMP 23.60.196);*
3. *Development standards for uses in the UR environment (SSMP 23.60.540);*
4. *Development standards for Single Family zones (SMC 23.44).*

#### 1. General Development Standards for all Shoreline Environments (SSMP 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impact to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety. The proposed off-site demolition and construction of the proposed float and floating home in the footprint of the existing float are consistent with the general standards for development within the shoreline area. General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are

required to prevent contamination of land or water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. To ensure conformance with the standards in SMC 23.60.157, the proponent will be required to notify contractors and subcontractors of these requirements.

## 2. Development Standards for Nonconforming Floating Home Moorages (SSMP 23.60.196)

There are two sets of development standards for floating homes; conforming and nonconforming moorages. The subject moorage is non-conforming. The remodeling, replacement, or rebuilding of a nonconforming floating home moorage is permitted subject to the provisions set forth in SMC 23.60.196C. The floating home moorage is located on Washington State lands, and the applicant has provided a copy of the lease from Washington State (SMC 23.60.196 A2). The existing views of the water from other moorage tenants will not be blocked (SMC 23.60.196.A3). This floating home moorage site is considered pre-existing for the purposes of the Seattle Shoreline Master Program because the float has an assigned King County Assessor's (KCA) No. (KCA #451). The KCA established it as a pre-existing use at the established moorage in Lake Union as of the effective date of this Chapter (SMC 23.60.196.A4). A moorage plan was submitted with this application and is on file with the Department of Planning and Development (SMC 23.60.196 A6).

### **Nonconforming Floating Home Requirements:**

	<b>Code Provision</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
<b>Float Area</b>	23.60.196.C1.a	Float area shall not be increased.	1,135 sq. ft. Rarey Houseboat	1,080 sq. ft. Brackett Houseboat
<b>Height</b>	23.60.196.C1.b	18 feet maximum height from water level	One story 12-ft. 9-inches	One story 15-ft. 5-inches
<b>Setback</b>	23.60.196.C1.c	6 feet minimum distance between subject home and adjacent walls	Does not meet the minimum distance between adjacent homes & walls.	Exceeds 6 feet from floating homes on all sides.
<b>Setback</b>	23.60.196.C1.d	3 feet minimum distance between subject wall and site line	Exceeds 3 feet on all sides.	Exceeds 3 feet on all sides.
<b>Open Water</b>	23.60.196.C1.e	No part of home may be further extended over water, beyond float edge	No portion of the proposed structure extends beyond float edge.	No portion of the proposed structure extends beyond float edge.
<b>Accessory Floats</b>	23.60.196.C1.f	Accessory floats – existing prior to 3/1/1977 may be replaced or maintained	Does not apply.	No replacement accessory float proposed.
<b>View Corridor</b>	23.60.196.C1.g	Cannot increase view corridor nonconformity	Existing view corridor nonconformity	Will not decrease existing view corridor

The proposed floating home (Brackett) to be relocated to the footprint of the existing floating home to be removed will not increase the area of the floating moorage, thereby not increasing the overall coverage for the moorage dock. No additional over water coverage is proposed for the Brackett floating home and no part of the floating home will be extended further over water beyond the size of the existing float. The total height of the floating home will continue to be less than the maximum 18 feet allowed from the water's surface. All proposed setbacks from the adjacent walls and floats conform to the standards for the nonconforming floating home structures.

The proposed project is consistent with the development standards for nonconforming structures in the UR shoreline environment and does not increase the extent of nonconformity. Therefore, the proposed project is consistent with the standards for the UR shoreline environment.

3. Development Standards for UR Shoreline Environments (SSMP 23.60.540)

The development standards set forth in the Urban Residential Shoreline Environment relate to height, lot coverage, view corridors and public access. The subject site, however, is nonconforming and therefore subject to the development standards set forth in the specific floating home standards for nonconforming floating home moorages. Please refer to the previous section for these requirements.

4. General Development Standards for Single Family Zone Uses (23.44 SMC)

SMC 23.44.008.C states that floating homes shall be subject to the provisions of SMC Chapter 23.60 except they shall be subject to the parking provisions of this chapter. There will be no change to the existing designated required off-street parking spaces because the moorage is removing one floating home from slip #0 and relocating another floating home to the same slip #0. Therefore, no change in off-street parking will be required for this project.

**C. THE PROVISIONS OF CHAPTER 173-27 WAC**

Chapter 173-27 of the WAC, sets forth permit requirements for development in shoreline environments and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

Summary

In conclusion, no additional adverse impacts to the lakebed or water quality are expected, and the proposed removal of one houseboat and relocation of the other houseboat will be consistent with the provisions set forth by 90.58 RCW, 173-27 WAC, and Chapter 23.60 SMC also known as the Seattle Shoreline Master Program (SSMP), subject to the conditions listed at the end of this report.

## **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

### **ANALYSIS – SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated October 27, 2008. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SSMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states in part: *"where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,"* subject to some limitations. Under such limitations/circumstances (SSMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

#### **Short-term Impacts**

The following temporary or construction-related impacts are expected: temporary increase in noise levels, increase in water turbidity levels, increased levels of fugitive dust and fumes from the construction equipment, disturbance of shorelines and displacement of some fish wildlife species due to increased water turbidity levels and increased noise from the construction activities. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794).

Several adopted codes and/or ordinances provide mitigation for the identified construction impacts. Specifically these are: the Seattle Noise Ordinance (construction noise); State Air Quality Codes administered by the Puget Sound Clean Air Agency (air quality); and the Seattle Shoreline Master Program. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

No SEPA conditioning of potential short-term impacts is warranted because impacts from the short term construction impacts will be mitigated through other codes, ordinances and regulations.

#### **Construction Impacts**

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

### Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project and the project's energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

### Height, Bulk, and Scale

The total height of the relocated floating home 15-ft. 5-inches which is less than the maximum eighteen feet (18 feet) allowed from the water surface. There is adequate separation between the floating home and the floating homes to the east, north, and south so solar access to those sites will not be obstructed. The appearance of bulk of the floating home will be reduced by design elements that are already incorporated into the structure and the fact that the relocated floating home is smaller than the floating home that is to be removed. There are a number of existing floating homes in the vicinity of a similar size and scale as the proposal. For these reasons, the proposed floating home at KCA #451 will not be out of scale with other floating homes in the vicinity, and no adverse impacts are expected related to bulk and scale.

### Underwater Habitat

No disturbance of the lake bed sediments is expected since all work will be done above water and there will be no increase in over-water coverage. There is little potential for debris to enter the water during the relocation and removal of the floating homes, although conditions that ensure that debris or toxic material does not enter the water will be part of the decision. In conjunction with the authority authorized in SMC 25.05.675 B Construction Impacts, the general recommendations from Metro shall also be followed as conditioned below.

### Water Quality Impacts

No disturbance of the lakebed sediments is expected since all work will be done above water, with connections to utilities in the water column (water, sewer). There is the potential for debris to enter the water during removal and installation of the floating homes, so care will have to be taken to prevent this from occurring. In addition to the requirements set forth by 23.60.152 SMC, Metro's recommendations to protect the water quality for Lake Union shall also be followed as conditioned below.

### **DECISION – SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.



- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

### **SEPA AND SHORELINE CONDITIONS**

The following conditions to be enforced during construction shall be posted at the site in a location on or near the property line that is visible and accessible to the public and to construction personnel from adjoining street right-of-way(s). The conditions will be affixed to placards prepared by DPD, to be issued along with the building permit set of plans. The placards shall remain posted on-site for the duration of the construction.

#### **Prior to Issuance of a Construction Permit**

1. A best managements plans (BMPs) document shall be developed and approved by a land use planner. The BMP document shall include:
  - a) A written description of the BMPS that will be used during the proposed work.
  - b) An emergency containment procedure for all toxic material that will be kept on site.
  - c) The requirement that all necessary equipment for containment and clean-up of this toxic material shall be stocked on the site and
  - d) The requirement that personnel working at the site shall be trained in the proper implementation of this plan.
  - e) Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water. The conditions of this equipment shall be checked regularly for leaks and repaired as needed.

#### **During Construction**

2. The owner(s), builder(s), or responsible party(s) shall follow the BMPs developed to prevent debris and other deleterious material from entering the water during demolition and construction.
  - a. If floating debris enters the water during the proposed work this debris shall be removed immediately and stored until it can be disposed of at an appropriate upland facility.

- b. If heavy (sinking) debris enters the water during the proposed work the location of the debris shall be documented in a log that is kept on site for the duration of the construction work. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during the proposed work.
3. Equipment using oil, gasoline, or diesel used on site shall be checked daily for evidence of leakage, if evidence of leakage is found, further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
4. No treated wood shall be used in any decking material.
  - If treated wood is proposed for other structures, this wood shall be professionally treated and completely cured using the best management practices developed by the Western Wood Preservers Institute (<http://www.wwpinstitute.org/>) before this wood is used for this project.

*During Removal/Installation of Floating Home (During Construction)*

5. No treated wood shall be used in the decking material.
  - If treated wood is proposed for other structures, this wood shall be professionally treated and completely cured using the best management practices developed by the Western Wood Preservers Institute (<http://www.wwpinstitute.org/>) before this wood is used for this project.
  - Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water. This equipment shall be checked daily for evidence of leaks, if evidence of a leak is found, the leak shall be contained and further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

*For the Life of the Project*

6. Standard best management practices (BMPs) (such as using secondary receptacle containers when handling toxic material so that any spilled material is contained in the second receptacle rather than entering the water and using toxic material so that none of this material enters the water) shall be used to ensure that no petroleum products, other toxic substances, including household chemicals, herbicides pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials are allowed to enter or leach into the water.

Signature: \_\_\_\_\_ (signature on file) Date: July 2, 2009  
Joan S. Carson, Land Use Planner II  
Department of Planning and Development